

Federal Emergency Management Agency, DHS

§ 11.45

taking offsets to collect delinquent debts, then the debtor shall be liable for such costs as administrative costs in accordance with section 11.48(d).

[63 FR 1066, Jan. 8, 1998]

§ 11.44 [Reserved]

§ 11.45 Collection by salary offset.

(a) *General.* Where an individual is an employee of the Federal Government or a member of the Armed Forces or a reserve component of the Armed Forces or is receiving retired or re-tainer pay for service as a Federal employee and where the individual is indebted to the United States and where the individual fails to satisfy his indebtedness voluntarily after the Agency has made demands in accordance with § 11.42 of this part, the ACO may institute collection action by salary or pay offset procedures in accordance with 5 U.S.C. 5514, 5 CFR 550.1101 through 550.1106, 5 CFR part 845, 5 CFR 831.1301 et seq., and the procedures described below.

(b) *Notice to debtor.* At least 30 days prior to initiating salary offset, the ACO or his designee shall send notice by certified mail, return receipt requested, to the debtor advising him of:

(1) Nature, origin and amount of indebtedness determined by the Agency to be due, the date that the debt was due, and a statement that FEMA has complied with applicable statutes, regulations and procedures,

(2) Agency intention to initiate proceedings to collect the debt by deductions from pay,

(3) Rights available under 5 U.S.C. 5514(a),

(4) Debtor's opportunity to inspect and copy Government records relating to the debt,

(5) Opportunity to enter into a written agreement, under terms satisfactory to the ACO, to establish terms for the repayment of the debt, and

(6) Opportunity for a hearing, described in paragraph (c) of this section, concerning the existence or the amount of the debt or, if no repayment schedule has been established (in accordance with paragraph (b)(1) of this section) concerning the terms of the repayment schedule,

(7) If there is a statutory provision authorizing waiver, remission, or forgiveness of the debt due the United States; the individual will be notified as to:

(i) Nature of the provision,

(ii) Explanation of the conditions under which the waiver shall be granted,

(iii) Reasonable opportunity to request a waiver,

(iv) If waiver is requested, then a written response will be given to the request.

(c) *Hearing.* The debtor shall file a written petition for hearing or for a waiver (if applicable) on or before the twentieth calendar day after receipt of notice, referred to in paragraph (b) of this section, addressed to the Agency Collections Officer, Federal Emergency Management Agency, Washington, DC 20472. The postmark or receipt date, if mail is not used, shall establish the date of petition.

(1) The hearing official shall be an Administrative Law Judge or a person of grade GS/GM-14 or higher, not under the supervision or control of the Director, FEMA. The Director may enter into interagency support agreements with other Federal agencies or departments for providing hearing officials.

(2) The hearing shall be informal but the debtor shall be given the basic safeguards of due process. The debtor shall have the right to be represented by an attorney. A summary record shall be made of the proceedings at the hearing. The hearing shall, insofar as possible, be conducted at a location and time convenient to the debtor.

(3) As soon as practicable, but in no event later than 60 days after the filing of the petition for hearing, the hearing official shall render a final decision. If a hearing is requested, no further action shall be taken to collect the debt until the final decision is rendered.

(d) *Amount deducted.* The amount deducted from pay for any period shall not exceed 15 percent of disposable pay. However, the debtor may voluntarily agree to the deduction of a greater amount of pay. Disposable pay means that part of pay of any individual remaining after the deduction from those earnings of any amounts required